

PHOENIX DISTRICT OFFICE NEPA COMPLIANCE RECORD
FOR CATEGORICAL EXCLUSIONS
AND ADMINISTRATIVE DETERMINATIONS

Type of Compliance Record:

NEPA#: DOI-BLM-AZ-P010-2012-013

Related #: AZA-35690

☒ Categorical Exclusion (CX) [Complete Parts I, II (A) & (B), IV & V]

 Administrative Determination (AD) [Complete Parts I, III, IV & V]

Proposed Action Title/Type: Buried Powerline Right-of-Way (ROW)

Location of Proposed Action:

Gila & Salt River Meridian, Maricopa County, Arizona

T. 9 N., R. 4 W., sec 6, lot 18;

T. 9 N., R. 4 W., sec 7, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The USGS Quad Map: Yarnell Quadrangle, Arizona – Yavapai County 7.5 Minute Series (topographic).

Description of the Proposed Action: The proposed action requests authorization to construct, use and maintain a new underground powerline for a period of 30 years. The powerline would start at the existing APS utility right-of-way (ROW) (AZAR-00110) and end on private property (see map, Attachment B). The length of the proposed underground trench is 282 feet. A 2-inch (in diameter) PVC conduit would be placed in the trench and a single conductor (one/zero stranded copper electrical line that is .368-inch thick) placed within the PVC conduit. The trench would be 3 feet in depth (similar to APS code) and 12-inches wide to meet National electric code. The minimum width the Bureau of Land Management (BLM) will allow for a powerline is 10 feet, therefore the total acres involved are .065. The powerline would take 1 week to construct and no temporary work areas are needed as they would be able to work within the width of the ROW. The powerline ROW would be used year-round to supply power to a communication site which has already been constructed on private land.

PART I - PLAN CONFORMANCE REVIEW

This proposed action is subject to the following land use plan: **The Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan** (RMP), approved April 2010. The proposed action has been reviewed for conformance with this plan [43 CFR 1610.5-3, BLM Manual 1601.04 C.2, BLM Manual Supplement (MS) 1617.3, Departmental Manual (DM) 516 and DM 11.5 (effective 5/8/08)]. It has been determined that the proposed action does comply with the objectives, terms, and conditions of the RMP. Specifically, this type of action is provided for under Decisions Applicable to the Entire Planning Area, Land Health Standards, Lands and Realty Management, Land Use Authorizations number LR-24 which states, *“Continue to issue land use authorizations (rights-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”*

PART II - CATEGORICAL EXCLUSION DETERMINATION

A. Verification of Listing: This proposed action qualifies as a CX under 516 DM 2, Appendix 1 (effective 9/26/84). It falls under the criteria for 516 DM 6, Appendix 5.4E(17) (effective 3/11/71), 516

DM 11.9E(17) (effective 5/8/2008), as well as BLM National Environmental Policy Act Handbook (H-1790-1) Appendix 4, E(17) (dated 1/2008). Each of the three citations states, ***“Grant of a short right-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well”***

And

B. Exception Review: 516 DM 2.3A(3) and 516 DM 2, Appendix 2 provides for the review of the following criteria to determine if exceptions apply to this project. [NOTE: Appropriate staff should determine exception, comment and initial for concurrence. If exceptions apply to the action or project, and existing National Environmental Policy Act (NEPA) documentation does not address it, i.e., Part III, then further NEPA analysis is required].

CRITERIA:

	Comment (YES/NO)	Staff Initial
1. Have significant impacts on public health and safety?	<u>NO</u>	<u>HC</u>
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	<u>NO</u>	<u>HC, CC, BL</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	<u>NO</u>	<u>HC, BL</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	<u>NO</u>	<u>HC, CC, BL</u>
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	<u>NO</u>	<u>HC, CC, BL</u>
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	<u>NO</u>	<u>HC</u>
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	<u>NO</u>	<u>BL, HC, CC</u>
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	<u>NO</u>	<u>CC, HC</u>
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	<u>NO</u>	<u>BL, CC, HC</u>

REVIEWER:_____/S/_____
Leah Baker, Planning & Environmental Coordinator

DATE: __2012/06/13__

PART V – DECISION:

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. This action will not have a direct or indirect adverse impact on energy development, production, supply and/or distribution. It is my decision to implement the project, as described, with the mitigation measures identified below.

MITIGATION MEASURES/OTHER REMARKS:

Mitigating measures will be attached to the grant as stipulations. The stipulations for the grant request are located in the attached document (Attachment A). Enclosures also include a location map (Attachment B) of the proposed site area and Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects (Attachment C).

1. All applicable regulations in accordance with 43 CFR 2920.
2. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder or any person working on the holders behalf, on public or federal land, shall be immediately reported to the authorized officer (AO), Hassayampa Field Office (HFO) Field Manager, D. Remington Hawes, at 623-580-5530. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. An evaluation of the discovery will be made the AO to determine the appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of the evaluation and any decision as to the proper mitigation measures will be made by the AO after consulting with the holder.

SIGNATURE:_____/S/_____
D. Remington Hawes, HFO Field Manager

DATE: __06/14/2012__

Attachment A

BLM Mitigating Measures for AZA-35690 Powerline Right-of-Way (ROW)

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and regulations to be promulgated by the Secretary of the Interior pursuant to Public Law 94-579.
- b. The holder shall comply with all applicable State and Federal laws and regulations applicable to the authorized use and such additional State and Federal laws, along with the impending regulations, existing or hereafter enacted or promulgated, during the term of the grant. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the ROW or on facilities authorized under this ROW grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the AO concurrent with the filing of the reports to the involved Federal agency or State government;
- c. The ROW herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States (U.S.), so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the U.S.;
- d. Access to site will be across existing roads only.
- e. If there is an incident involving hazardous waste, the holder will immediately notify the authorized officer (AO), of the incident and then submit written documentation of the corrective action taken;
- f. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- g. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- h. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- i. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.

- j. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.
- k. The right-of-way will be brush-hogged to prevent unnecessary disturbance. Only those areas where safety, absolute need for construction or other regulations may warrant the use of topsoil removal by blading or scalping. This right-of-way clearing shall be limited to the limits of the right-of-way. Suitable topsoil material removed in conjunction with clearing and stripping shall be conserved in stockpiles within the right-of-way.
- l. Holder shall remove only the minimum amount of vegetation necessary for construction. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
- m. Prior to fill construction, the existing surface shall be sloped to avoid sharp banks and allow equipment operations. No fills shall be made with frozen or water saturated soils. Construction equipment shall be routed evenly over the entire width of the fill to obtain a thorough compaction.
- n. Construction holes left open over night shall be covered. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.
- o. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
- p. Holder shall limit excavation to the areas of construction. No borrow areas for fill material will be permitted on the site. All off-site borrow areas must be approved in writing by the authorized officer in advance of excavation. All waste material resulting from construction or use of the site by holder shall be removed from the site. All waste disposal sites on public land must be approved in writing by the authorized officer in advance of use.
- q. The holder shall inform the authorized officer within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.
- r. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- s. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of

containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

- t. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
- u. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
- v. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of **four** inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- w. During construction, drilling and other activities covering trenches and slope ends to prevent animals from becoming trapped.
- x. Care should be taken to look for and avoid desert tortoises during the construction and operation of the facility. Before construction occurs, project personnel should search the construction area thoroughly for desert tortoises and avoid desert tortoises during construction activity. If desert tortoises must be moved to prevent harming them, they should be moved according to the Arizona Game and Fish Tortoise Handling Guidelines (Attachment C). It is a violation of state law to harm Sonoran desert tortoises;
- y. Any exceptions to these requirements must have prior written approval from the authorized officer. Please be advised that due to limits on the available time of qualified personnel, the unpredictability of wildlife, and future weather conditions, request for exceptions to impending wildlife stipulations will only be considered in the event of extraordinary and unavoidable occurrences over which the company has little or no control. Additionally, construction of the road needs to be started in a time frame which would allow for reasonably normal completion prior to the beginning date of wildlife protection stipulations.
- z. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation;

- aa. The holder shall re-contour the disturbed area and obliterate all earthwork by removing embankments, backfilling excavations, and grading to re-establish the approximate original contours of the land in the right-of-way.
- bb. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities, prior to use, for acceptable weed control methods (within limits imposed in the grant stipulations).
- cc. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- dd. The holder shall meet Federal, State, and local emission standards for air quality.
- ee. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
- ff. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer.
- gg. The holder shall comply with the construction practices and mitigating measures established by 33 CFR 323.4, which sets forth the parameters of the "nationwide permit" required by Section 404 of the Clean Water Act. If the proposed action exceeds the parameters of the nationwide permit, the holder shall obtain an individual permit from the appropriate office of the Army Corps of Engineers and provide the authorized officer with a copy of same. Failure to comply with this requirement shall be cause for suspension or termination of this right-of-way grant.
- hh. The holder of Right-of-Way No. AZA-35690 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
- ii. Upon demand of the AO, the holder of the ROW shall pay to the U.S. such sums as the AO shall determine to be required to reimburse the U.S. for all administrative and other costs incurred directly or indirectly by the U.S. in monitoring the construction, operation, maintenance, and termination of this grant;
- jj. At least 60 days prior to termination of the ROW, the holder shall contact the AO to arrange a joint inspection/pre-termination conference of the ROW. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The AO must approve the plan in writing prior to the holder's commencement of any termination activities. The holder agrees to incur all costs associated with achieving an acceptable rehabilitation standard;

- kk. Upon completion of construction, the lands shall be restored to as near their natural condition as possible, subject to approval by the AO, at the Phoenix District Office;
- ll. Within 90 days after completion of construction or after all restoration stipulations have been complied with, whichever is later, proof of construction, on forms approved by the Director, shall be submitted to the AO;
- mm. This ROW may be renewed. If renewed, the ROW will be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest;
- nn. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
- oo. This ROW reserves to the Secretary of the Interior, or his lawful delegate, the right to grant additional ROWs or permits for compatible uses over, under or adjacent to the land involved in this grant;